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SUBJECT: BRAZIL: Copyright Scenesetter: Piracy Enforcement Efforts
Yield Results; Challenges Lie Ahead

REF: A) Sao Paulo 71; B) 06 Brasilia 993; C) Sao Paulo 1206

¶1. Post sends this telegram in advance of A/USTR Espinel's visit to Brazil the week of February 26. Our Special 301 reporting cable, which (inter alia) will include industry views and a look at the patent/trademark situation, will follow septel.

¶2. (SBU) Summary: The December "Report on Activities" released by the GOB National Council to Combat Piracy (CNCP) indicates that the overall nine-month results of GOB interdiction efforts as of September 30, 2006 surpassed those for the entire year of 2005. The GOB report set forth the government's approach to combating IPR piracy involving enforcement, public education, and economic efforts, and noted a 54 percent increase in the total value of goods confiscated during the first nine months of 2006 in comparison with the same period in 2005. The report also highlighted public outreach activities such as the "Pirate: I'm Out!" initiative and the planned 2008 "Brazil Against Piracy" caravan across the country.

In sessions with USG interlocutors, GOB officials continue to express frustration at USG inclusion of the country on the "Priority Watch List." However, based on comments made during a recent meeting with EmbOffs and the GOB's refusal to allow EU speakers at a planned March IPR training seminar, it appears that Brazil's dialogue with the EU on IPR is even pricklier than that with the USG.

¶3. (U) Notwithstanding the above-noted enforcement efforts, a U.S. Chamber of Commerce/Brazil-U.S. Business Council commissioned poll released in December 2006 found that the purchase of pirated goods had increased among 25-39 year olds and those over 50 in certain cities. The poll suggested a 17 percent growth overall in commercial piracy in the cities of Rio de Janeiro, Belo Horizonte and Recife and a 14 percent reduction in the sale of pirated goods in Sao Paulo city. End Summary.

¶4. (U) The December "Report on Activities" released by the GOB Ministry of Justice (MOJ) National Council to Combat Piracy (CNCP) indicates a substantial increase in GOB piracy enforcement efforts. Although most of the data included for 2006 only covers the first three quarters, the overall results equal or surpass calendar year ¶2005. The GOB report outlined its three-pronged approach to combating IPR crime: enforcement, public education, and economic efforts. While prior year efforts focused heavily on public education, the GOB currently appears to be pursuing the enforcement approach more vigorously than the other two.

15. (U) GOB IPR enforcement typically involves two ministries: the Finance Ministry (Customs and Tax Authority) and the Ministry of Justice (Federal Police and Federal Highway Patrol). Through the CNCP, the Ministry of Justice coordinates interagency IPR enforcement activities and state level authorities, who often have primary jurisdiction. In turn, the Division of Intellectual Property at the Ministry of Foreign Affairs (MFA) is involved in these efforts and liaises with international actors.

16. (U) The CNCP report segments out efforts by these ministries and provides an overall view of total seizures of pirated goods. Among the highlights, the GOB reports a 54 percent increase in the total value of goods confiscated during the first nine months of 2006 (approximately USD 283.1 million) versus the same period in 2005 (approximately USD 183 million). The CNCP report shows seizures over the first nine months of 2006, outstripping all of 2005 by over USD 3.1 million. However, it did not provide consolidated information on arrests and convictions for piracy and contraband activities.

17. (U) The 2006 rundown of individual law enforcement agencies activities follows below. Note that while many of the CNCP figures do not separate piracy from contraband investigations and seizures, they do demonstrate increased activity by GOB authorities in containing the movement of illegal products in Brazil, including counterfeited items.

Enforcement Actions

--Customs Authority

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18. (U) The Customs Authority reported a significant increase in both vehicles apprehended while smuggling unlicensed and illegal goods and in total contraband seized during its ongoing "Armed Border" operation conducted on the frontier with Paraguay in the "Tri-Border" area (see chart below). The CNCP report notes that a new customs office, inaugurated in July and located on the Brazilian side of the Friendship Bridge in Foz Do Iguacu, is inspecting all traffic coming from Paraguay as opposed to the estimated five percent of vehicles stopped for inspection before construction of the office.

Operation Armed Border

	2005 -----	2006 (9/30) -----	Change (percent) -----
Vehicles Apprehended	1458	2452	68.2
Goods Seized* (selected categories)			
Computer Related	8.08	9.06	12.17
Electronics	6.69	8.31	24.22
Toys	1.84	1.67	-9.06
Total	16.61	19.04	14.68

*(in millions USD, rounded up)

--Federal Police

19. (U) Piracy and contraband investigations by the Federal Police increased during 2006 and by September 30 had surpassed the total for the year 2005. These figures also include "tax evasion" investigations, now a common charge in connection with piracy cases.

Investigations	2005 ----	2006 (9/30) ----	Change (percent) -----
	6186	6930	12.03

¶10. (U) During 2006, the Federal Police opened a new station in Cascavel, Parana, a key road juncture on the route from Foz do Iguacu to the rest of Brazil. In coordination with Brazilian software, music and industrial property business associations, the Police carried out "Operation I-Commerce" to combat internet piracy on October 16, which resulted in the issuance of 79 search and arrest warrants in 13 states and the Federal District, and 20 arrests.

--Federal Highway Patrol

¶11. (U) According to the CNCP report, the Federal Highway Patrol, through "Special Operations Centers" located throughout the country, provided training on combating piracy and contraband to local and state authorities.

¶12. (U) As with the other divisions, Federal Highway Patrol statistics represent a marked increase in anti-piracy and contraband seizure activities:

Seizures:	2005	2006 (9/30)	Change (percent)
	----	----	-----
CDs and DVDs (units)	2,013,411	5,496,512	170.71
Medicines (boxes)	120,212	198,554	65.17

--States and Municipalities

¶13. (U) The CNCP report lists a number of state and municipal anti-piracy actions. Among the highlights are the confiscation of illegal products by police in the following states: Ceara - 75,717 counterfeit Time Warner and Disney products; Rio de Janeiro - 244,960 DVDs, 367,679 CDs, 35,934 VHS tapes and 108,927 software applications and games; Sao Paulo - 1,204,724 DVDs and 672,975 CDs; Piaui - 64,249 DVDs and 170,456 CDs; Pernambuco - 282,647 DVDs and 42,093 CDs; Minas Gerais - 83,319 DVDs and 107,943 CDs; and Goias -

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91,462 DVDs, CDs, VHS tapes and games.

--GOB Anti-Piracy Raids on "Notorious Markets"

¶14. (U) GOB agencies have conducted raids on a number of known counterfeit goods markets, often in coordination with state and local authorities. In many cases, the deterrent effect on the sale of pirated goods is limited, but the goods confiscated often represent a significant financial loss to the vendors of these products.

¶15. (U) A May 2006 Federal Police raid on Brasilia's "Import Fair" involved 120 police, netted over 150,000 pirated items - mostly CDs and DVDs - and resulted in the shutdown of 95 retail outlets. (In a visit one week later, EconOfs found the market to be functioning normally with widespread sale of pirated goods - reftel B.)

¶16. (U) In January 2006, Federal Customs Police, acting on a tip from an informant, used a helicopter to stop eight small busses carrying around USD 400 thousand in contraband that had entered Brazil from the Paraguayan side of Foz do Iguacu. The busses were stopped 80 kilometers inside Brazil and the contraband confiscated.

¶17. (U) Police from Rio de Janeiro's Delegation to Repress Crimes Against Intangible Property (DRCPIM) confiscated pirated CDs, DVDs, tennis items, and other contraband during a March 2006 search of 1,500 street vendor stalls on the notorious Rua Uruguaiana. As a result, the police arrested the president of the association of street vendors on charges of contraband, piracy and usurping the public power. In May, DRCPIM officials shut down facilities used for illegal reproduction of CDs and DVDs. One of the piracy operations contained 25 DVD recorders.

¶18. (U) Local authorities teamed with the state's Military Police to conduct the January anti-piracy effort "Operation 25 de Marco" in

downtown Sao Paulo, during which police collected 21 thousand illegal CDs and DVDs. In August, the same agencies teamed together to conduct "Operation Windstorm" on the well-known Rua Santa Ifigenia marketplace. In this maneuver, the 70 member taskforce confiscated almost USD 300 thousand in illegal merchandise.

Educational Activity

--Pirate: I'm Out! I Only Use the Original.

¶19. (U) An initiative of the Union of Customs Employees with support from the National Confederation of Industry and the CNCP, the "Pirate: I'm Out! I only use the Original," campaign seeks to raise public consciousness about piracy and contraband in Brazil and emphasize the importance of intellectual property protection. Aimed at the 16 - 24 year old age group, found by a 2005 U.S. Chamber sponsored survey to be the largest group of consumers of pirated goods, the project highlights the advantages of consuming only legally licensed products.

¶20. (U) The campaign was "pre-launched" in Bahia during the crowded 2006 Carnival celebrations, attended by a number of artists and entertainment personalities, in an attempt to raise public consciousness about intellectual property piracy. Organizers canvassed beaches and shopping malls to distribute leaflets and other materials advertising the campaign.

¶21. (U) Campaign organizers carry their message to schools and universities and sponsor anti-piracy messages in both print and broadcast media. They also distribute fliers, t-shirts, buttons, bumper stickers, caps, and textbooks bearing their distinctive logo. (Comment: In a January 24 visit to the MOJ, EconOff noticed the anti-piracy slogan flashing across a display panel in the MOJ elevators. End Comment.) In July, the campaign targeted a musical event in Teresina (state of Piaui) and plans to launch a national caravan, "Brazil Against Piracy," early next year to reach youths in state capitals throughout the country.

--Creativity in Combating Piracy Award

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¶22. (U) The "Creativity in Combating Piracy," award is part of the "Pirate: I'm Out" campaign and is sponsored by a Brazilian consultancy in connection with the U.S. Chamber of Commerce, NIKE, the Motion Picture Association and a Brazilian state owned bank. It targets university students and is intended to promote leadership, social responsibility and awareness of the causes and impacts of piracy.

--"Citizenship Game"

¶23. (U) The "Citizenship Game" is a public-private effort intended to promote social responsibility among youths and university students. Among its programs is the opportunity for participants to participate in training courses given by major corporations and the U.S. Chamber on combating piracy.

Economic Efforts

¶24. (U) The GOB is encouraging corporations to look for "creative alternatives" to provide legal goods at a lower cost to reduce the attractiveness of cheaper counterfeit items to lower income citizens. Several companies are already taking note. Media reports indicate the U.S. National Basketball Association (NBA) and the Brazilian soccer club Atletico Minas Gerais have announced commencement of alternative merchandise lines that will sell in Brazil at reduced prices. This still embryonic initiative calls for tax reductions on select products.

USG and Industry Provided Training

¶25. (U) The last year has seen a growth in momentum of USG and industry provided training in Brazil. During CY 2006, the USG partnered with the Brazilian Association for the Defense of Intellectual Property (ADEPI) to conduct a series of INL funded copyright piracy seminars for Brazilian federal and state law enforcement officials in Brasilia, Porto Alegre, Belo Horizonte and Recife. Additional 2006 seminars built upon these efforts and included as sponsors the U.S. Chamber of Commerce, Sao Paulo State Federation of Industries, CNCP, Minas Gerais State Federation of Industries and private industry representatives. Held in major cities and ports around the country, these seminars targeted various audiences including port customs officials, judges, prosecutors, state law enforcement officials, college students and teachers.

¶26. (U) Various groups have planned a total of eleven separate IPR training programs in Brazil for 2007. Sponsors include USPTO, INL, USDOC, U.S. Chamber of Commerce, USTDA, the U.S. Chamber of Commerce, Sao Paulo State Federation of Industries, CNCP and the American Chamber of Commerce in Brazil. These seminars will be designed to reach not only law enforcement personnel and government officials, but also college students and the business community.

¶27. (U) The CNCP report also notes GOB partnerships with a wide range of Brazilian industry associations to provide anti-piracy training to public officials. In 2006, in-country training collaborators included the Brazilian Association of Software Companies (ABES), the Entertainment Software Association (ESA), Association for the Protection of Phonographic Intellectual Rights, ADEPI, Sao Paulo State Federation of Industries, and the Rio de Janeiro Delegation for Repression of Crimes against Intangible Property. Last October, CNCP received the Motion Picture Association of America's anti-piracy award for its contribution to the reduction of piracy and the raising of public and government awareness of the problem.

Other State Activities

--Anti-Piracy Committees

¶28. (U) Sao Paulo, Brazil's most populous state, began the year with the creation of the Inter-Agency Committee to Combat Piracy. This group, which coordinates its efforts with the CNCP, is composed

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of the Governor, his Chief of Staff, the Attorney General, six State Secretaries (Justice; Finance; Public Security; Labor; Culture; and

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Science, Technology, and Economic Development), and members of their staffs. Sao Paulo joins the states of Rio de Janeiro and Rio Grande do Sul, which already have established state anti-piracy committees, and the state of Minas Gerais, which formed a similar committee in 2006 (reftel C).

Legislation

--Federal Legislation

¶29. (U) The 2006 legislative session ended without action on three proposed amendments to federal anti-piracy legislation covering software, industrial property and intangible property. The legislation, endorsed by the International Intellectual Property Alliance (IIPA), would have stiffened criminal penalties for piracy.

--State Legislation

¶30. The Federal District and the states of Sao Paulo, Mato Grosso, and Rio de Janeiro took steps to strengthen anti-piracy legislation. In Sao Paulo, an enterprise can now be banned from conducting

business for five years for selling pirated goods. The prohibition extends to any branch or other attempt to open a similar business in another name. Mato Grosso is reportedly considering similar legislation. In the Federal District, vendors of pirated goods can be fined up to approximately USD 25,000. In Rio de Janeiro, sellers of pirated goods can lose their business licenses.

¶31. (U) However, there are states with far weaker anti-piracy legislation. For example, in Rio Grande do Sul (reftel A), sale of pirated items is subject to a relatively minor fine and the legislation allows counterfeiters to retain their illicit goods after paying the fine.

Increased Media Coverage and Ongoing Problems

¶32. (U) A January 28 media report highlighted the arrest of 38 Federal Highway Patrol members, 23 Federal Police agents and four customs officials on charges of facilitating the movement of contraband to Brazil from Paraguay. While underscoring the problem of corruption among officials charged with policing piracy, the article is one of several that have appeared in recent days about Brazil's piracy problem, and evinces media consciousness on the subject.

¶33. (U) A U.S. Chamber of Commerce/Brazil-U.S. Business Council-commissioned poll released in December 2006, found that price is the determining factor in the Brazilian consumer's purchasing decisions. The survey also found that the purchase of pirated goods increased in the 25-39 year old age group and with those over 50. The report acknowledges increased GOB efforts to combat piracy, but the results do not show a major movement in consumer behavior away from purchasing pirated goods.

¶34. (U) The poll also noted a 17 percent growth overall in commercial piracy in the cities of Rio de Janeiro, Belo Horizonte and Recife, including a 45 percent increase in pirated items in the clothing, tennis and toy sectors. By contrast, in Sao Paulo city, the country's largest and a key focal point of increased GOB anti-piracy effort, the survey found a 14 percent reduction in the sale of pirated goods.

¶35. (SBU) Comment: While there is much yet to be accomplished, particularly in the area of public consciousness, the December 2006 CNCP report highlights the progress the GOB has made in its fight against piracy in 2006. GOB authorities are becoming increasingly frustrated over Brazil's continued inclusion on the USTR "Priority Watch List" despite what they consider greatly improved IPR enforcement mechanisms and efforts. This manifests itself in both large and small ways, the most egregious example of the latter being

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when the MFA protocol office requested the USPTO representative in Sao Paulo to stop using "IPR Attache" in his official title because he had not been declared as such to the GOB.

¶36. (SBU) For what its worth, relations between Brazil and the EU on IPR are worse. In meetings on January 24 and January 30, representatives of the CNCP and the MFA both told EconOff they were frustrated by their continued inclusion on the EU IPR "Blacklist" and felt the GOB had a much more fluid dialogue with the USG on IPR issues. One official told EconOff that he felt the Europeans reach conclusions first and then look at the facts, noting that the EU had based its decision on 1999 piracy data. The GOB's dialogue with the EU over IPR issues has deteriorated to the point that the GOB insisted that no EU or G-8 speakers participate in a proposed joint US-EU intellectual property rights enforcement seminar planned for Foz do Iguacu in March. End Comment.

Sobel